



Legislative  
Research  
Council

# MINUTES

## STATE-TRIBAL RELATIONS COMMITTEE

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**Wednesday  
January 21, 2004**

**Room 412  
State Capitol  
Pierre, South Dakota**

The Legislature's State-Tribal Relations Committee was called to order by Representative Stanford Adelstein, Chair, at 3:35 p.m., January 21, 2004, in Room 412 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Gil Koetzle, Michael LaPointe, and Sam Nachtigal; and Representatives Stanford Adelstein, Jim Bradford, and Thomas Van Norman. Representative Kent Juhnke joined the meeting at 3:40 p.m. Excused were: Senators Patricia de Hueck and Brock Greenfield; and Representative J. E. "Jim" Putnam. Staff members present were Tom Magedanz, Principal Research Analyst, and Kris Schneider, Legislative Secretary.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

### **Welcome and Opening Remarks**

Chair Adelstein stated that the purpose of this meeting was to take public testimony on any topic; however, because of proposed legislation regarding the Indian Child Welfare Act (ICWA) he would limit the amount of time for testimony on ICWA.

**Mr. Arvol Looking Horse**, Green Grass Community, gave the opening and closing prayers.

**Ms. Jody Jordan**, Senator Tom Daschle's Northeast Area Outreach Coordinator, Aberdeen, on behalf of Senator Daschle thanked the committee for the invitation to participate in the meeting. She stated that Michelle Singer and Wizipan Garriott, a Lakota from the Rosebud Reservation, serve as the Senator's Indian Affairs policy team in Washington and any questions on federal legislation may be directed to them by calling 1-800-424-9094.

She stated that Senator Daschle believes the relationship between the federal, state, and tribal governments is a partnership. She reported that the findings from the Gathering and Healing of Nations Conference held this past October in Pierre are now available on the web at [www.gatheringofnations.net](http://www.gatheringofnations.net). The Web site contains information of the various breakout sessions: education and youth, agriculture, economic development, health, and law enforcement.

### **Public Testimony**

**Ms. Faith Spotted Eagle**, Lake Andes, stated that she has concerns with ICWA and introduced **Ms. Joy Bear**, Lake Andes, who was adopted prior to the enactment of ICWA. Ms. Bear testified regarding her nine-year old son. When he was 16 months old, his nonnative adoptive grandmother was given temporary custody. A CHINS petition was filed on her son in Minnehaha County and Ms. Bear stated that she was never notified by the court that her son was being placed in a foster home. By the time she found out about the court action, she stated it was too late to do anything about it. She was not aware nor made aware of the ICWA regulations. At that time, her son was not an enrolled member of a tribe; however, he was enrollable and is now enrolled with the Yankton Sioux Tribe. Neither Ft. Berthold (her tribe) nor the Yankton Sioux Tribe was ever contacted. She stated that today her son is in a nonnative foster home off the reservation and that she wants her child back so that she may raise him in her culture. She wants South Dakota to pass an Indian Child Welfare Act. Following her testimony, Ms. Bear distributed a copy of her testimony (**Document #1**).

**Mr. Raymond Cournoyer**, Marty, ICWA Director for the Yankton Sioux Tribe, testified that South Dakota needs an ICWA law because federal and tribal laws are not being followed in the state courts and state programs are not always sensitive to the needs of Native Americans and to cultural differences in child raising practices. He feels that natural relatives should have first preference to take care of the children.

Chair Adelstein stated that a bill was going to be introduced regarding ICWA and asked Mr. Cournoyer to testify at the bill hearing.

**Mr. Webster Two Hawk**, Pierre, testified that he has been working with Senator LaPointe on the ICWA legislation. He is concerned with how the Department of Social Services (DSS) checks out adoptive and foster parents with regard to Indian children. He is also concerned with the Department of Corrections and how money is handled when sent to inmates. Mr. Two Hawk stated that the states of Michigan, Nebraska, Iowa, and Kansas turn over jurisdiction immediately to the tribal court when they find a person is an enrolled member or a potential member of a tribe.

**Mrs. Marge Two Hawk**, Pierre, testified that she hopes the proposed bill regarding ICWA passes. She stated that her granddaughter has been in the custody of the DSS for five years and is in a bad place. She testified that DSS had her take parenting classes--after she had raised nine children of her own. She hopes other parents and grandparents will not have to go through what her family has.

**Ms. Terri Grablander**, Mission, daughter of Mr. and Mrs. Two Hawk, testified that she was never contacted by DSS when her niece was removed. She contacted DSS about the possibility of her niece being placed with her and her family; however, DSS has not returned her phone calls.

**Ms. Ta Sonke Gli Nanji Win**, McLaughlin, Jr. Miss Standing Rock 2003-2004, stated that some of her friends have been placed in nonnative foster homes and she feels the discipline in the foster homes is far worse than if her friends were living at home.

**Ms. Sandra L. White Hawk**, St. Paul, Minnesota, Executive Director, First Nations Orphans Association, testified that she was adopted by a nonnative family prior to the enactment of ICWA. She stated that there is not a word for "adoptee" in the native language because of their extended families. She stated that the native way is different; however, the family system is there and it is strong and needs to be considered. She stated that the rates of depression and suicide are discussed in the Split Feather Syndrome Study--a post-adoption study. Chair Adelstein asked Ms. White Hawk to send him a copy of the study.

Representative Van Norman agreed with Ms. White Hawk. It is important that the courts understand the Native American culture--there is a loss when a person is missing.

**Ms. Naomi Johnson**, Rapid City, testified regarding the need for a state ICWA. She has four Native American grandchildren who are currently in foster homes in four different cities. She stated that she was never informed that she could intervene and ask for a change of jurisdiction. She had to research the ICWA laws herself; the attorneys were not aware of the ICWA rules and regulations. She also stated there needs to be an oversight committee to see that ICWA is followed and not ignored. DSS told her that she would have to take a ten-week foster care parenting class before they would consider placing the children with her. The parenting class was scheduled for January; however, the children were taken by DSS in August. She asked that they pass a state ICWA so that families have someplace to go. She also stated that it is a financial hardship for the family to comply with all the requests of DSS.

**Ms. Germaine E. Means**, Eagle Butte, testified regarding grandparent visitation rights. She asked that any bill adopted include visitation rights for grandparents. She stated that she has not seen her grandchild for four years.

**Ms. Beverly Iron Shield**, McLaughlin, ICWA Director for Standing Rock Sioux Tribe, testified in support of a state ICWA. She would like to see mandatory training on ICWA for DSS staff and some type of penalty if DSS does not work with the tribes. She stated that Native American mothers have to comply with many standards that they are not accustomed to in order to get their children back. She questioned whose standards the home studies are based on. Chair Adelstein asked how she determines if it is in the best interest of the child or the mother? Ms. Iron Shield responded that it is best for the mother and the child to be together. Maybe a mother has lost her way and needs to get back to the basics; there is family out there, perhaps a grandmother, sister, or other extended family that can help. If not, then she prefers a Native American foster family. In response to Representative Valandra's question how ICWA works in North Dakota, Ms. Iron Shield responded that they have their problems also.

**Mr. Looking Horse**, keeper of the sacred pipe for his nation, stated that there is a great understanding of spiritual energy--mind, body, and soul--that everything is connected. Mr. Looking Horse was also concerned with people in prison. Their families need to know that they are in good hands. He told a story about how buffalo take care of their own and how this is the same with his culture.

**Ms. Nancy Fleming Martin**, Hill City, testified that she previously worked for DSS and knows that ICWA also applies to the Department of Corrections (DOC). She feels that DOC does not

follow ICWA. She stated that there is a need for an ICWA review committee, ICWA training sessions for state's attorneys and judges, and an advocate for the parents.

Chair Adelstein commented that children are not possessions; they are human beings and their interests must come first.

**Ms. Belinda F. Joe**, Ft. Thompson, testified that she is looking for solutions. She wants to heal the family unit starting at the grassroots level. They have asked for funding from tribal leaders and have not received any. She stated that the tribal council does not speak for all the people. She also stated that ceremonies are important; they are part of the healing process.

**Ms. Amanda Turney**, Kadoka, a student at Kadoka Public Schools, asked the committee what she should do when a teacher lets racial comments slip and whether she will have an equal chance to get a full-ride scholarship. Chair Adelstein suggested that she have her parents speak to the principal or perhaps she should write the teacher a note on how the comment made her feel because of his/her actions. As to scholarships, Chair Adelstein responded that grades would be a determining factor. Chair Adelstein commented that when you are not part of the majority, you remember it.

**Ms. Destiny Turney**, Kadoka, a student at Kadoka Public Schools, asked the committee if a Native American child should transfer to another school because of racial remarks and harassments. She stated that she has had friends that have. She gave an example of a Native American child who was thrown off a bus by the driver. The child's parent went to the school board but was not believed because they are Native American.

**Ms. Twylla Turney**, Kadoka, testified that there is abuse in the Kadoka school system. Her daughters are receiving a good education there and she doesn't want to transfer them.

Chair Adelstein stated he would contact the superintendent at Kadoka following session to discuss the matter with him. Representative Juhnke stated that he would like to visit with them more about the situation.

**Ms. Marletta Pacheco**, Rapid City, provided several letters and documents she had received since the last meeting regarding inmate complaints and conditions (**Document #2**).

**Mr. Ron Kirkie**, Ft. Thompson, stated that prisoner input is needed on the parole board. Mr. Kirkie sang a closing song.

Chair Adelstein adjourned the meeting at 5:17 p.m.



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